Judge:	Hon. Marc L. Barreca
Chapter:	Chapter 7
Hearing Date:	March 2, 2012
Hearing Time:	9:30 a.m.
Hearing Site:	700 Stewart St., #7106 Seattle, WA 98101
Response Date:	February 24, 2012

UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re: ADAM GROSSMAN, Debtor.	Case No. 10-19817 TRUSTEE'S OBJECTION TO TSAI LAW COMPANY'S APPLICATION FOR DISBURSEMENT OF APPROVED FEES AND EXPENSES

Ron Brown, the Chapter 7 Trustee in this case, by and through his counsel files this objection to the Tsai Law Company's Application for Disbursement of Approved Fees and Expenses ("Disbursement Motion").

The Tsai Law Company already has approved Chapter 11 fees in the amount of $51,723.83 and costs in the amount of $10,355.17. The Tsai Law Company now seeks an order compelling the trustee to make a disbursement of the fees and costs. The Disbursement Motion must be denied because a disbursement would violate the priorities of disbursement set forth in section 726 of the Bankruptcy Code.

Section 726 of the Bankruptcy Code sets forth how funds are to be disbursed. Congress, not the courts, has the authority to make policy judgments regarding distributions in bankruptcy. The statutory scheme is set forth in section 726 of the Bankruptcy Code, and this Court must follow the statutory scheme decided upon by Congress. _U.S. v. Noland_, 517 U.S. 535, 536, 116 S. Ct. 1524, 134 L. Ed. 748 (1996).

Section 726 (a) and (b) state:

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(a) [P]roperty of the estate shall be distributed

(1) First, in payment of claim of the kind specified in, and on the order specified in, section 507 . . .

(b) Payment of claims of a kind specified in . . . section 507(a) shall be made pro rata among the claims of the kind specified in each particular paragraph

Section 726(b) of the Bankruptcy Code gives Chapter 7 administrative claims priority over chapter 11 administrative claims. In re LPM Corporation, 300 F.3d 1134, 1138 (9th Cir. 2002).

An Agreed Order (docket #300) was entered by this court on January 6, 2012 ("Fee Order") which allowed the following chapter 7 administrative fees and costs as follows:

Wood & Jones, P.S.	$87,562.78[1]
Office of the U. S. Trustee	$ 1,625.00

The Trustee disbursed $32,501.55 to Wood & Jones, P.S. and $603.17 to the Office of the United States Trustee. Thus there remains $56,083.06 in approved but unpaid fees. The Trustee is holding approximately $14,967.15[2] in his estate trust account. Exhibit "1" to the Declaration of Ron Brown filed simultaneously herewith. The trustee has not applied for fees as of this date, but the amount of his statutory fee, based on the Form II receipts, would be $5,573.89. In addition, the trustee's attorneys have incurred an additional $57,780.84 in fees and costs from October 1, 2011 through January 31, 2012, thus the total

[1] This amount represents fees and costs sought through September 30, 2011 (docket #286, page 7 lines 24-25).

[2] Because the Trustee is sure it is going to be raised, we need to clarify the balance of $14,967.15 in the Trustee's accounts. The Fee Order required the Trustee to hold back $15,000.00. After the disbursements to Wood & Jones and the US Trustee on January 9, 2012 the balance in the Trustee's account was $15,000.18. On January 31, 2012 there was an in interest deposit of .21 cents and a bank service fee deduction of $33.24, which reduced the balance in all accounts from $15,000.18 to .the present balance of $14,961.87.

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approved and potential chapter 7 costs of administration as of January 31, 2012 is $119,437.99.

Even if there were funds to pay the Tsai Law Group, it would only be entitled to payment on a pro rata basis with other Chapter 11 claimants. A review of the claims register shows that Lyman Opie (claim #16) has reserved the right to contend the $20,000.00 loan made to the debtor post-petition, constitutes a Chapter 11 cost of administration. There has been no order allowing claims entered and until that happens, the total amount of the chapter 11 claims remains undetermined.

As noted by the Court in Ungaretti & Harris LLP v. Steinberg (In re Resource Tech Corp). 2008 WL4696073, 50 Bankr.Ct.Dec. 202 (N.D.Ill. Oct 20, 2008) it is a fact of life among bankruptcy professionals that they "provide services and accept interim compensation at their own peril."

The Disbursement Motion should be denied.

Dated this 24th day of February, 2011.

WOOD & JONES, P.S.

/s/ Denice E. Moewes
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